

ORIGINAL

1 Christopher C. Hoffman (CA Bar No.:176334) choffman@laborlawyers.com
 2 Amy M. Goble (CA Bar No.: 243778) agoble@laborlawyers.com
 3 FISHER & PHILLIPS LLP
 4 4225 Executive Square, Suite 950
 5 La Jolla, California 92037
 Telephone (858) 597-9600
 Facsimile (858) 597-9601

07 DEC 28 AM 10:58

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY: *gms*

DEPUTY

6 Attorney for Defendant
 7 LA PETITE ACADEMY, INC.

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

'07 CV 2427 J RBB

11	CONNIE CORN, an individual,	) Case No.:
12	Plaintiff,	) [Removed from State Court - Case No. 37-2007-00069409-CU-WT-CTL]
13	vs.)
14	LA PETITE ACADEMY, INC., a	) DEFENDANT'S NOTICE OF
15	corporation; BRANDY FRYBARGAR,	) REMOVAL OF ACTION TO THE UNITED
16	an individual; and DOES 1 to	) STATES DISTRICT COURT OF THE
17	250, inclusive;	) SOUTHERN DISTRICT OF CALIFORNIA
18)
19	Defendants.	) (Diversity Jurisdiction)
20		) COMPLAINT FILED: June 29, 2007

21 TO PLAINTIFF CONNIE CORN, HER ATTORNEYS OF RECORD, AND THE
 22 CLERK OF THE ABOVE-ENTITLED COURT:

23 PLEASE TAKE NOTICE that Defendant La Petite Academy, Inc.
 24 ("La Petite" or "Defendant") hereby removes the above-
 25 referenced action of plaintiff Connie Corn ("Plaintiff") from
 26 the San Diego Superior Court to the United States District
 27 Court for the Southern District of California pursuant to 28
 28 U.S.C. §§ 1441 and 1446. In support of removal, Defendant
 states as follows:

///

1 | | PROCEDURAL HISTORY

1. On June 29, 2007, Plaintiff filed a Complaint in the Superior Court of the State of California for the County of San Diego, entitled *Connie Corn v. La Petite Academy, Inc.*, a corporation; *Brandy Frybargar*, an individual; and *DOES 1 to 250*, San Diego Superior Court Case No. 37-2007-00069409-CU-WT-CTL (the "Complaint"). The Complaint alleges claims for wrongful termination in violation of public policy, disability discrimination and failure to accommodate/engage in interactive process, retaliatory termination in violation of Government Code section 12940(h) and violation of Labor Code section 201.

2 2. On or about July 10, 2007, Plaintiff served the
3 Summons and Complaint on Corporation Service Company, the
4 authorized agent to accept service of process on behalf of La
5 Petite since La Petite is based in Novi, Michigan. A copy of
6 the Summons and Complaint that were served on La Petite is
7 attached to this Notice as Exhibit "A."

8 TIMELINESS OF REMOVAL

9 3. Service of the Complaint upon La Petite was effective
0 on July 10, 2007.

1 4. La Petite filed an Answer to the Complaint in San
2 Diego Superior Court on August 9, 2007.

3 5. Since that time, Plaintiff failed to serve the
4 individual Defendant Brandy Frybargar and Plaintiff filed a
5 request for dismissal of the individual defendant on or about
6 November 29, 2007.

6. As a result, the only parties remaining in the case are La Petite Academy, Inc. and Plaintiff.

1 7. This Notice of Removal is timely filed as to La
2 Petite because it has been filed within 30 days of Plaintiff's
3 filing the request for dismissal of the individual defendant at
4 which time the case became removable pursuant to 28 U.S.C. §
5 1446(b).

6 **BASIS FOR REMOVAL JURISDICTION**

7 8. This Court has diversity jurisdiction over this
8 action pursuant to 28 U.S.C. § 1332 because Plaintiff and
9 Defendant are citizens of different states, and the amount in
10 controversy exceeds \$75,000 exclusive of interests and costs.
11 Accordingly, this case may be removed to this Court under 28
12 U.S.C. §§ 1441(a) and 1446(b).

13 **A. Diversity of Citizenship**

14 9. Plaintiff indicates in her Complaint that she
15 currently resides in San Diego County, California and that at
16 all times relevant to the Complaint she resided in San Diego
17 County, California. See Complaint, Ex. A at ¶ 5. She is,
18 therefore, a citizen of the State of California.

19 10. Plaintiff erroneously alleges in her Complaint that
20 La Petite is a corporation with a principal place of business
21 in San Diego, California. See Complaint, Ex. A, ¶ 6. Contrary
22 to Plaintiff's assertions, La Petite is, and at all relevant
23 times was, a corporation organized and existing under the laws
24 of the State of Delaware with its principal place of business
25 in Michigan. See Declaration of Ira Young ("Young Decl.")
26 attached hereto as Exhibit "B", at ¶¶ 2-4. Accordingly, La
27 Petite is a citizen of Delaware and Michigan.

28 ///

1 11. Complete diversity of citizenship exists because
2 Plaintiff and La Petite are citizens of different states.¹

3 **B. Amount in Controversy**

4 12. The amount in controversy in this action exceeds the
5 \$75,000 minimum required by 28 U.S.C. § 1332(a). As Plaintiff
6 alleges in the Complaint, she seeks to recover damages for loss
7 of earnings, deferred compensation, overtime and other
8 employment benefits from June 30, 2006 through the present.

9 13. In addition to lost earnings, Plaintiff seeks to
10 recover damages for physical injuries and/or physical sickness
11 and medical expenses.

12 14. In addition, Plaintiff seeks to recover punitive
13 damages for Defendant's alleged conduct.

14 15. For these reasons, the amount Plaintiff seeks to
15 recover against Defendant, exclusive of interests and costs,
16 exceeds the \$75,000 jurisdictional minimum of this Court.

17 **NOTICE PROVIDED TO STATE COURT**


18 16. Pursuant to U.S.C. § 1446(d), Defendant concurrently
19 with the filing of this Notice of Removal, served written
20 notice thereof to Plaintiff and has filed a copy of this notice
21 with the clerk of the Superior Court of California, County of
22 San Diego, from which this case was removed. A copy of the
23 Notice of Filing Petition for Removal is attached as Exhibit
24 "C" and a copy of the Notice to Adverse Parties is attached as
25 Exhibit "D."

26 _____
27 ¹The Complaint also names as Defendants DOES 1 through 250, inclusive ("Does
28 Defendants"). Pursuant to 28 U.S.C. § 1441(a), the citizenship of DOE
Defendants are disregarded. For this reason, this Notice of Removal does
not discuss the citizenship of DOE Defendants.

1 Wherefore Defendant respectfully requests that the above-
2 mentioned litigation (Case No. 37-2007-00069409-CU-WT-CTL), now
3 pending before the Superior Court of the State of California,
4 San Diego County, be removed therefrom to this court based on
5 diversity jurisdiction.

6 FISHER & PHILLIPS LLP

7
8 Dated: December 26, 2007

By: 
CHRISTOPHER C. HOFFMAN
AMIE M. GOBLE
Attorneys for Defendant
La Petite Academy, Inc.

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

NOTICE TO DEFENDANT:**(AVISO AL DEMANDADO):**

LA PETITIE ACADEMY, INC., a corporation; BRANDY FRYBARGER, an individual; and DOES 1 through 250, inclusive;

YOU ARE BEING SUED BY PLAINTIFF:**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

CONNIE CORN

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED JUN 29 P 4:04
CIVIL JUSTICE 13
7007 JUN 29 P 4:04
CLERK OF COURT
SAN DIEGO, CA

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

San Diego Superior Court
220 W. Broadway
220 W. Broadway
San Diego, California 92101
Central Division

CASE NUMBER 7007-00069409-CU-WT-CTL
(Número del Caso)

FILE BY FAX

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gary R. Carlin, Esq., CSBN 44945
Joanne P. Freeman, Esq., CSBN 140137
Law Offices of Carlin & Buchsbaum, LLP
Long Beach, CA 90802

(562)432-8933

(562)435-1656

DATE:

(Fecha)

JUN 29 2007

Clerk, by

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify):

LA Petite Academy, a corporation

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

Page 1 of 1

EXHIBIT

A

1 THE LAW OFFICES OF CARLIN & BUCHSBAUM, LLP

2 GARY R. CARLIN, CSBN: 44945

3 BRENT S. BUCHSBAUM, CSBN: 194816

4 JOANNE P. FREEMAN, CSBN: 140137

5 555 E. Ocean Blvd., Suite 818

6 Long Beach, CA 90802

7 Telephone: (562) 432-8933, Fax: (562) 435-1656

8 Attorneys for Plaintiff CONNIE CORN

2007 JUN 29 P 4:04

SAN DIEGO COUNTY, CA

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN DIEGO

11 CONNIE CORN,

12 Plaintiff,

13 vs.

14 LA PETITE ACADEMY, INC., a corporation;
15 BRANDY FRYBARGAR, an individual; and
16 DOES 1 through 250, inclusive;

17 Defendants.

CASE NO. 37-2007-00069409-CU-WT-CTL

18) COMPLAINT FOR DAMAGES
19) (1) WRONGFUL TERMINATION IN
20) VIOLATION OF PUBLIC POLICY;
21) (2) DISABILITY DISCRIMINATION AND
22) FAILURE TO ACCOMMODATE /
23) ENGAGE IN INTERACTIVE PROCESS;
24) (3) RETALIATORY TERMINATION IN
25) VIOLATION OF GOVERNMENT CODE
26) SECTION 12940(h);
27) (4) VIOLATION OF LABOR CODE § 201

28 [DEMAND FOR JURY TRIAL]

FILE BY FAX

COMES NOW the Plaintiff, CONNIE CORN, (who hereinafter shall collectively be referred to as the "Plaintiff" or individually as "CORN"), who hereby respectfully alleges, avers, and complains, as follows:

COMPLAINT

-1-

 COPY

INTRODUCTION

1. This is an action brought by the Plaintiff, CORN, pursuant to California statutory, decisional, and regulatory laws. Plaintiff was an employee of Defendant LA PETITE ACADEMY, INC., a corporation, (hereinafter referred to as "ACADEMY").
2. Plaintiff alleges that California statutory, decisional, and regulatory laws prohibit the conduct by Defendants herein alleged, and therefore Plaintiff has an entitlement to monetary relief on the basis that Defendants violated such statutes, decisional law, and regulations.

JURISDICTION AND VENUE

3. Jurisdiction is proper in this court by virtue of the California statutes, decisional law, and regulations, and the local rules under the San Diego County Superior Court Rules including but not limited to the rules governing the proper court in which to file an action for wrongful termination, to wit: LASC Local Rule 2(a) and 2(b), et seq.
4. Venue in this Court is proper in that the causes of action herein alleged took place at ACADEMY's business address located in the City of San Diego, County of San Diego, State of California.

PARTIES

5. At all times herein mentioned, Plaintiff CORN is and has been a resident of San Diego County, State of California.

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CHIEF AND JUDGE

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1 6. Defendant ACADEMY is and at all times herein mentioned has been a corporation with
2 the capacity to sue and to be sued, and doing business, with a principal place of business
3 located at 10050 Carmel Mt. Road, San Diego, CA 92128.

4
5 7. Defendant BRANDY FRYBARGAR (sometimes hereinafter referred to as
6 'FRYBARGAR'), is and and at all times herein mentioned was a manager employed by
7 ACADEMY and/or was a manager of the Plaintiff and/or was a manager in Plaintiff's
8 department, and at all times herein mentioned was and is a resident of the County of San
9 Diego, State of California.

10
11 8. Plaintiff is informed and believes and thereon alleges that each of the Defendants herein
12 were at all times the agent, employee, or representative of each remaining Defendant and
13 were at all times herein acting within and outside the scope and purpose of said agency
14 and employment. Plaintiff further alleges that as to each Defendant, whether named,
15 FRYBARGAR, or referred to as a fictitious name, said Defendants supervised, ratified,
16 controlled, acquiesced in, adopted, directed, substantially participated in, and/or approved
17 the acts, errors, or omissions, of each remaining Defendant.

18
19 9. The true names and capacities of the Defendants named herein as DOES 1 through 250,
20 inclusive, whether individual, corporate, partnership, association, or otherwise, are
21 unknown to Plaintiff who therefore sues these Defendants by such fictitious names.
22 Plaintiff will request leave of court to amend this Complaint to allege their true names
23 and capacities at such time as they are ascertained.

24 //
25 //
26 //
27 //
28 //

FACTUAL ALLEGATIONS

10. Plaintiff became employed by Defendant ACADEMY, on or about January 29, 1995, as a preschool teacher. Plaintiff CORN was wrongfully terminated by ACADEMY on or about June 30, 2006, as hereinafter alleged.

11. On or about March 21, 2005, Plaintiff slipped on some wet grass on ACADEMY premises, injuring her knee. Medical tests later revealed that Plaintiff had torn a meniscus ligament. In or about October of 2005, Plaintiff had surgery as a result of the above-referenced injury, and missed approximately two weeks of work thereafter. Plaintiff did not miss any further work as a result of her injury. Inexplicably, on or about June 30, 2006, Plaintiff was told that she was being fired and would be referred to vocational rehabilitation, despite the fact that Plaintiff was able to perform the essential functions of her job. Plaintiff only requested and/or required reasonable accommodations.

12. Prior to filing this Complaint, Plaintiff fulfilled any legal requirement or exhausted any administrative remedy imposed on her by having filed the substance of claims alleged herein with the California Department of Fair Employment and Housing (hereinafter "DFEH"), and has received a Right to Sue Letter from the DFEH. Plaintiff has therefore substantially complied with all requirements for the filing of this Complaint and has exhausted her administrative remedies prior to filing, commencing, and serving the within action.

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FIRST CAUSE OF ACTION**(Wrongful Termination in Violation of Public Policy)****(CORN Against Defendants ACADEMY and DOES 1 through 100, inclusive)**

13. The allegations of paragraphs 1 through 12 are re-alleged and incorporated herein by reference as though set forth at length.

14. At all times herein mentioned in this complaint, Government Code Section 12940(h), Government Code Section 12945.2, and California Constitution Article 1, Section 8, were in full force and effect and were binding on the Defendants and the Defendants were subject to their terms, and therefore ACADEMY was required to refrain from retaliation for whistle blowing, discrimination on the basis of disability; or for having taken leave, or for having been denied other alternative employment.

15. Plaintiff believes and is informed and thereon alleges that her protestation against and/or refusal to perform, permit, acquiesce, participate, suffer or allow illegal, fraudulent, deceitful, and unethical acts was in part a factor in Defendants' decision to terminate the Plaintiff.

16. Plaintiff believes and is informed and thereon alleges that her disability and/or taking leave was in part a factor in Defendants' decision to terminate the employment of Plaintiff.

17. Plaintiff was hired by the Defendants on or about January 29, 1995, as a preschool teacher.

//

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CARLIN AND BUCHHEIT

PAGE 06/13

1 18. Plaintiff CORN was wrongfully terminated by ACADEMY on or about June 30, 2006, as
2 hereinafter alleged. The foregoing adverse employment decision was a direct and
3 proximate result of the Plaintiff's taking leave, and/or her disability.

4
5 19. Plaintiff worked continuously for Defendant, until she was wrongfully terminated, in
6 spite of her superior performance.

7
8 20. Defendants' conduct above described is in violation of various statutes and the decisional
9 law of this state and country, including but not limited to the FEHA, Government Code
10 § 12940, et seq.; Title VII Civil Rights Act of 1964; *Stephens v. Coldwell Banker*
11 *Commercial Group, Inc.*, (1988) 199 Cal. App.3d 1394, 1399-1401, and California
12 Constitution Article 1, Section 8.

13
14 21. As a direct and legal result of Defendants' discrimination and retaliatory actions against
15 Plaintiff for her complaints herein referenced, Plaintiff has suffered and continues to
16 suffer general, consequential and special damages including but not limited to substantial
17 losses in earnings, other employment benefits, *physical injuries, physical sickness*, as
18 well as emotional distress, plus medical expenses, future medical expenses, and
19 attorneys' fees, all to her damage in an amount according to proof.

20
21 22. Said termination was wrongful and justifies the imposition of punitive damages since the
22 termination was against public policy. Defendants intentionally discriminated against
23 Plaintiff on account of her taking leave, and/or her disability, and her complaints about
24 same, and in doing so, Defendants acted maliciously, fraudulently and oppressively, with
25 the wrongful intention of injuring Plaintiff. Based upon the foregoing, Plaintiff is entitled
26 to recover punitive damages in an amount according to proof from Defendants and each
27 of them.
28

SECOND CAUSE OF ACTION

**(DISABILITY DISCRIMINATION AND FAILURE TO ACCOMMODATE / ENGAGE
IN INTERACTIVE PROCESS)**

(CORN Against Defendants ACADEMY and DOES 1 through 100, inclusive)

23. The allegations of paragraphs 1 through 22 are incorporated herein by reference as though set forth at length.

24. Defendant ACADEMY is a business entity regularly employing at least the minimum number of employees upon which certain legal duties and obligations arise under various laws and statutes, including the Fair Employment and Housing Act. At all times herein mentioned in this complaint, Government Code §12940 and Government Code §12926.1 were in full force and effect and were binding on the Defendants and the Defendants were subject to their terms.

25. Plaintiff timely filed a complaint of discrimination with the Department of Fair Employment and Housing alleging *inter alia* violations of Government Code §12940, including, but not limited to §12940(a), (m), and (n), and all other applicable provisions, fully exhausting Plaintiff's administrative remedies, and has been issued a Right to Sue Letter, conferring jurisdiction on this court over these claims.

26. At all times herein mentioned, Plaintiff was fully qualified and competent to perform the duties assigned, with a reasonable accommodation. At all relevant times herein mentioned, and as a proximate result of the acts referred to herein: Plaintiff suffered from a knee injury, and other disabling physical injuries, as well as various mental health injuries including depression and anxiety from work related stress, including but not limited to sadness, anger, nervousness, headaches, upset stomachs, bowel problems, nightmares, fatigue, loss of self-esteem, sleep disturbance, eating disorders, and

1 enjoyment dysfunction, as well physical pain, discomfort, and injury.

2
3 27. Although Defendants knew of Plaintiff's injuries and physical limitations, and emotional
4 stress and upset from work related conditions, Defendants required Plaintiff to continue
5 working under the same conditions. Specifically, Defendants continued to force and
6 pressure Plaintiff to work without accommodation. Defendants' actions were in direct
7 contravention of the above mentioned provisions of the Fair Employment and Housing
8 Act.

9
10 28. Plaintiff is informed and believes and thereon alleges that with reasonable
11 accommodations she could have fully performed all duties and functions of her job in an
12 adequate, satisfactory and/or outstanding manner.

13
14 29. As a direct and legal result of Defendants' discrimination and retaliatory actions against
15 Plaintiff for her complaints herein referenced, Plaintiff has suffered and continues to
16 suffer general, consequential, and special damages, including but not limited to
17 substantial losses in earnings, other employment benefits, *physical injuries, physical*
18 *sickness*, as well as emotional distress, plus medical expenses, future medical expenses,
19 and attorneys' fees, all to her damage in an amount according to proof.

20
21 30. Said termination was wrongful and justifies the imposition of punitive damages since the
22 termination was against public policy. Defendants intentionally discriminated against
23 Plaintiff on account of her disability, acted maliciously, fraudulently and oppressively,
24 with the wrongful intention of injuring Plaintiff. Defendants acted with an evil purpose,
25 in an intentional and deliberate manner, in violation of Plaintiff's civil rights, and/or with
26 a conscious disregard of Plaintiff's rights. Based upon the foregoing, Plaintiff is entitled
27 to recover punitive damages in an amount according to proof from Defendants and each
28 of them.

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CASE 1:07-cv-02427

THIRD CAUSE OF ACTION

(Retaliatory Termination in Violation of Government Code Section 12940(h))
(CORN Against Defendants ACADEMY, FRYBARGAR and DOES 1 through 100,
inclusive)

31. The allegations of paragraphs 1 through 30 are re-alleged and incorporated herein by reference as though fully set forth herein.

32. At all times herein mentioned in this complaint, Government Code Section 12940(h) was in full force and effect and binding on the Defendants and the Defendants were subject to its terms. Defendants wrongfully terminated the Plaintiff for reasons and in a manner contrary to public policy, on a pre-textual basis, in retaliation for her complaints as to discrimination and suffering, as herein above alleged, and for complaining about said acts.

33. Plaintiff engaged in protected activity, in that she complained about discrimination and suffering. In retaliation, Defendants subjected Plaintiff to an adverse employment decision by wrongfully discharging the Plaintiff under a pre-textual reason from employment and denying Plaintiff re-employment altogether. Said retaliation was in violation of public policy because the sole and actual reason for terminating the Plaintiff was that Plaintiff complained about, and or opposed, and/or was going to disclose information regarding Defendants' wrongful policies and procedures as above alleged, including discrimination. As a result, the Defendants referenced in this action deliberately decided to terminate the Plaintiff. Defendants' reason for the termination was pre-textual because Plaintiff was terminated shortly after she complained and opposed Defendants' unlawful practices.

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JUDGE

COURT AND COUNTY

FILED 12/28

34. Defendants' conduct above described is in violation of various statutes and state law decisions, including but not limited to **Government Code § 12940(h)**, **Labor Code § 1102.5(b)**, **Civil Code § 3294**, **42 U.S.C. § 2000e-3(a)**, and state law, including *Collier v. Superior Court* (1991), 228 Cal. App.3d 1117, and *Gantt v. Sentry Ins.* (1992), 824 P.2d 680.

35. As a direct and legal result of Defendants' retaliatory actions against Plaintiff for her complaints herein referenced, Plaintiff has suffered and continues to suffer general, consequential, and special damages, including but not limited to substantial losses in earnings, other employment benefits, *physical injuries, physical injuries*, as well as emotional distress, plus medical expenses, future medical expenses, and attorneys' fees, all to her damage in an amount according to proof.

36. Said termination was retaliatory and justifies the imposition of punitive damages since the termination was against public policy. Defendants committed the acts alleged herein maliciously, fraudulently, oppressively, with the wrongful intention of injuring the Plaintiff, from an improper purpose and evil motive amounting to malice, and in conscious disregard of the Plaintiff's rights. Based upon the foregoing, Plaintiff is entitled to recover punitive damages from Defendants, and each of them, in an amount according to proof.

FOURTH CAUSE OF ACTION

(Violation of Labor Code § 201)

(CORN Against Defendants ACADEMY, and DOES 1 through 100, inclusive)

37. The allegations of paragraphs 1 through 36 are re-alleged and incorporated herein by reference as though set forth fully herein.

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CHIEF AND DEPUTY

1 38. Plaintiff alleges on personal information and belief that Defendants failed to pay Plaintiff
2 earned wages and hours immediately upon termination.

3
4 39. Defendants are in violation of California Statutory laws prohibiting such conduct,
5 including but not limited to, California Labor Code Section 200 et. seq. (including but
6 not limited to Labor Code Sections 201, and 203 - which provides for statutory
7 penalties), and attorneys' fees under Labor Code Section 218.5.

8
9 40. As a result of the above-described unpaid wages, Plaintiff is entitled to wages owing,
10 interest thereon, and, in addition, continuing wages through the time this complaint is
11 filed and until Defendants make all due payments.

12
13
14 PRAYER

15
16 1. For damages according to proof, including loss of earnings, deferred compensation,
17 overtime and other employment benefits;

18
19 2. For interest on the amount of losses incurred in loss of earnings, deferred compensation,
20 and other employee benefits at the prevailing legal rate.

21
22 3. For prejudgment interest on lost wages and benefits;

23
24 4. For general damages, including, but not limited to, damages for *physical injuries and/or*
25 *physical sickness*, according to proof;

26
27 5. For other special damages according to proof, including but not limited to reasonable
28 medical expenses;

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CASE 1:07-cv-02427

- 1 6. For punitive damages according to proof;
- 2
- 3 7. For costs incurred by Plaintiffs, including reasonable attorneys' fees and costs of suit, in
- 4 obtaining the benefits due Plaintiffs and for violations of Plaintiff's civil rights as set
- 5 forth above.
- 6
- 7 8. For such other and further relief as the court deems just and proper,
- 8

9 Dated: June 28 2007

THE LAW OFFICES OF CARLIN & BUCHSBAUM, LLP

10 By 

11 Gary R. Carlin, Attorneys for Plaintiff CONNIE CORN

12

13

14 **DEMAND FOR JURY TRIAL** (or alternatively arbitration if an enforceable arbitration

15 agreement exists)

16

17 Plaintiff hereby respectfully demands a jury trial.

18

19 Dated: June 28 2007

THE LAW OFFICES OF CARLIN & BUCHSBAUM, LLP

20 By 

21 Gary R. Carlin, Attorneys for Plaintiff CONNIE CORN

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

111 N. Market Street, Suite 810, San Jose, CA 95113
(408) 277-1277 TTY (800) 700-2320 Fax (408) 277-9997
www.dfeh.ca.gov



December 4, 2006

Joanne P. Freeman
Attorney At Law
CARLIN & BUCHSBAUM, LLP
555 E. Ocean Blvd., Ste. 818
Long Beach, CA 90802

RE: E200607G0587-00-prc
CORN/LA PETITE ACADEMY, INC.

Dear Joanne P. Freeman:

NOTICE TO COMPLAINANT'S ATTORNEY

Enclosed is a copy of your client's complaint of discrimination filed with the Department of Fair Employment and Housing on 11/20/2006 pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also enclosed is a copy of your client's Notice of Case Closure, which constitutes your client's right-to-sue notice.

Please note that under Government Code section 12962, you are responsible for **service of the complaint** on respondent(s). You should also enclose a copy of the Notice of Case Closure along with the complaint. These documents must be served within **60 days** of the filing date of the complaint. Government Code section 12962(b) further provides that complaints must be served either personally or by certified mail with return receipt requested.

For additional information, please read the enclosed Notice of Case Closure that explains the conditions for filing a private lawsuit in the State of California.

Sincerely,

A handwritten signature in cursive script, reading "Marlene Massetti", is written over a horizontal line.

Marlene Massetti
District Administrator

Enclosure: Complaint of Discrimination
Notice of Case Closure

DFEH-200-06 (01/05)

*** EMPLOYMENT ***

ORIGINAL FILING

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACTDFEH # E-200607-G-0587-00-prc
DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (indicate Mr. or Ms.)

Ms. Connie Corn

TELEPHONE NUMBER (INCLUDE AREA CODE)

(818)375-7898

ADDRESS

13039 Evening Creek Drive South #35

CITY/STATE/ZIP

San Diego, California 92128

COUNTY

San Diego

COUNTY CODE

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP
COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME

La Petite Academy, Inc.

TELEPHONE NUMBER (Include Area Code)

(858)484-2654

ADDRESS

10050 Carmel Mt. Road

CITY/STATE/ZIP

San Diego, CA 92128

COUNTY

San Diego

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

15+

DATE MOST RECENT OR CONTINUING DISCRIMINATION

TOOK PLACE (month, day, and year) June 30, 2006

RESPONDENT CODE

THE PARTICULARS ARE:

On 6/30/06 and various other dates I was ☒ fired ☐ denied employment ☒ denied family or medical leave
☐ laid off ☐ denied promotion ☐ denied pregnancy leave
☐ demoted ☐ denied transfer ☐ denied equal pay
☒ harassed ☒ denied accommodation ☐ denied right to wear pants
☐ genetic characteristics testing ☐ impermissible non-job-related inquiry ☐ denied pregnancy accommodation
☐ forced to quit ☒ other (specify) retaliated against

by Brandy Frybargar

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of my:

☐ sex☐ national origin/ancestry☒ physical disability☐ cancer☒ (Circle one) filing:☐ age☐ marital status☒ mental disability☐ genetic characteristic☒ protesting participating in
investigation (retaliation for)☐ religion☐ sexual orientation☐ race/color☐ association☒ other (specify) retaliation for complaining about/opposing discriminationthe reason given by Brandy Frybargar

Name of Person and Job Title

Was because of Disability: Retaliation

[please state

what you believe

to be reason(s)]

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated November 9, 2006

At

San Diego
City

Connie Corn

COMPLAINANT'S SIGNATURE

NOV 20 2006

DATE FILED: NOV 20 2006

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

111 N. Market Street, Suite 810, San Jose, CA 95113
(408) 277-1277 TTY (800) 700-2320 Fax (408) 277-9997
www.dfeh.ca.gov



December 4, 2006

Joanne P. Freeman
Attorney At Law
CARLIN & BUCHSBAUM, LLP
555 E. Ocean Blvd., Ste. 818
Long Beach, CA 90802

RE: E200607G0587-00-prc
CORN/LA PETITE ACADEMY, INC.

Dear Joanne P. Freeman:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective November 20, 2006 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

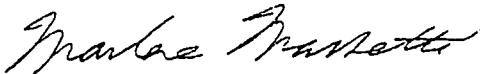
This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marlene Massetti".

Marlene Massetti
District Administrator

cc: Case File

HUMAN RESOURCES DIRECTOR
LA PETITE ACADEMY, INC.
10050 CARMEL MT. ROAD
SAN DIEGO, CA 92128

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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December 4, 2006

Joanne P. Freeman
Attorney At Law
CARLIN & BUCHSBAUM, LLP
555 E. Ocean Blvd., Ste. 818
Long Beach, CA 90802

RE: E200607G0587-01-prc
CORN/FRYBARGAR, BRANDY, AS AN INDIVIDUAL

Dear Joanne P. Freeman:

NOTICE TO COMPLAINANT'S ATTORNEY

Enclosed is a copy of your client's complaint of discrimination filed with the Department of Fair Employment and Housing on 11/20/2006 pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also enclosed is a copy of your client's Notice of Case Closure, which constitutes your client's right-to-sue notice.

Please note that under Government Code section 12962, you are responsible for **service of the complaint** on respondent(s). You should also enclose a copy of the Notice of Case Closure along with the complaint. These documents must be served within **60 days** of the filing date of the complaint. Government Code section 12962(b) further provides that complaints must be served either personally or by certified mail with return receipt requested.

For additional information, please read the enclosed Notice of Case Closure that explains the conditions for filing a private lawsuit in the State of California.

Sincerely,

A handwritten signature in cursive script, reading "Marlene Massetti", is written over a horizontal line.

Marlene Massetti
District Administrator

Enclosure: Complaint of Discrimination
Notice of Case Closure

DFEH-200-06 (01/05)

*** EMPLOYMENT ***

ORIGINAL

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT

DFEH # E-200607-G-0587-01-prc

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.)

Ms. Connie Corn

TELEPHONE NUMBER (INCLUDE AREA CODE)

(818)375-7898

ADDRESS

13039 Evening Creek Drive South #35

CITY/STATE/ZIP

San Diego, California 92128

COUNTY

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NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP
COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME

TELEPHONE NUMBER (Include Area Code)

Brandy Frybargar c/o La Petite Academy, Inc.

(858)484-2654

ADDRESS

10050 Carmel Mt. Road

DFEH USE ONLY

CITY/STATE/ZIP

San Diego, CA 92128

COUNTY

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NO. OF EMPLOYEES/MEMBERS (If known)

15+

DATE MOST RECENT OR CONTINUING DISCRIMINATION

TOOK PLACE (month, day, and year) June 30, 2006

RESPONDENT CODE

THE PARTICULARS ARE:

On 6/30/06; and various other dates I was ☒ fired ☐ denied employment ☒ denied family or medical leave
☐ laid off ☐ denied promotion ☐ denied pregnancy leave
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by Brandy Frybargar

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of my: ☐ sex ☐ national origin/ancestry ☒ physical disability ☐ cancer ☒ (Circle one) filing;
☐ age ☐ marital status ☒ mental disability ☐ genetic characteristic ☒ protesting participating in
☐ religion ☐ sexual orientation ☐ investigation (retaliation for)
☐ race/color ☐ association ☒ other (specify) retaliation for complaining about/opposing discrimination

the reason given by Brandy Frybargar

Name of Person and Job Title

Was because of Disability; Retaliation

[please state

what you believe

to be reason(s)]

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated November 8, 2006

At

San Diego
City

Connie Corn

COMPLAINANT'S SIGNATURE

RECEIVED

DATE FILED: NOV 20 2006

NOV 20 2006

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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www.dfeh.ca.gov



December 4, 2006

Joanne P. Freeman
Attorney At Law
CARLIN & BUCHSBAUM, LLP
555 E. Ocean Blvd., Ste. 818
Long Beach, CA 90802

RE: E200607G0587-01-prc
CORN/FRYBARGAR, BRANDY, AS AN INDIVIDUAL

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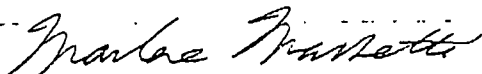
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If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

Notice of Case Closure
Page Two

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Sincerely,



Marlene Massetti
District Administrator

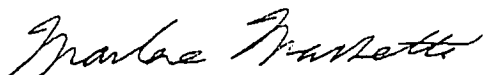
cc: Case File

BRANDY FRYBARGAR
AS AN INDIVIDUAL
LA PETITE ACADEMY, INC.
10050 CARMEL MT. ROAD
SAN DIEGO, CA 92128

Notice of Case Closure
Page Two

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Sincerely,



Marlene Massetti
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cc: Case File

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AS AN INDIVIDUAL
LA PETITE ACADEMY, INC.
10050 CARMEL MT. ROAD
SAN DIEGO, CA 92128

*** EMPLOYMENT ***

COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT

DFEH # E-200607-G-0587-00-prc

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (indicate Mr. or Ms.)

Ms. Connie Corn

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by Brandy Frybargar

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☐ religion ☐ sexual orientation ☐ investigation (retaliation for)
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the reason given by Brandy Frybargar

Name of Person and Job Title

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[please state

what you believe

to be reason(s)]

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated November 8, 2006

At

City

Connie Corn

COMPLAINANT'S SIGNATURE

DATE FILED: NOV 20 2006

NOV 20 2006

DFEH-300-03 (01/05)

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DEPT. OF FAIR EMPLOYMENT
Legal
Solutions AND HOUSING
Co. Plus
LS-DFEH1

Christopher C. Hoffman (CA Bar No.: 176334)
choffman@laborlawyers.com

Amie M. Goble (CA Bar No.: 243778)
agoble@laborlawyers.com

FISHER & PHILLIPS LLP
4225 Executive Square, Suite 950
La Jolla, California 92037
Telephone (858) 597-9600
Facsimile (858) 597-9601

Attorney for Defendant
AMERICAN ENGINEERING SERVICES INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CONNIE CORN, an individual,	) Case No:
)
Plaintiff,	) [Removed from State Court
	) Case No.: 37-2007-00069409-CU-WT-CTL]
vs.)
)
LA PETITE ACADEMY, INC., a	) DECLARATION OF IRA YOUNG IN
corporation; BRANDY FRYBARGAR,	) SUPPORT OF REMOVAL OF ACTION TO
an individual; and DOES 1 to	) THE UNITED STATES DISTRICT
250, inclusive;	) COURT OF THE SOUTHERN DISTRICT
	) OF CALIFORNIA
)
Defendants.	) COMPLAINT FILED: June 29, 2007
)

I, Ira Young, declare as follows:

1. I am the Vice President, General Counsel and Corporate Secretary for Defendant La Petite Academy, Inc. ("La Petite"). I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would competently testify thereto.

2. La Petite's principal place of business is located at 21333 Haggerty Road, Suite 300, Novi, Michigan 48375. The day-to-day management, administrative and executive functions of La Petite are performed out of the Michigan office.

///

EXHIBIT B

1 3. La Petite is a corporation organized and existing
2 under the laws of the State of Delaware since 1982.

3 4. La Petite has never been a California corporation. La
4 Petite is simply authorized to transact business in the State
5 of California as a foreign corporation.

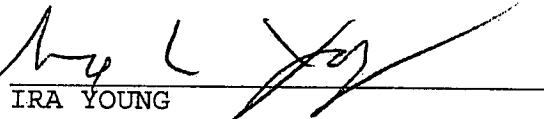
6 I declare under penalty of perjury under the laws of the
7 state of Michigan that the foregoing is true and correct.

8 Executed this 26th day of December 2007, in Novi, Michigan.

9

10

11


IRA YOUNG

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28

Christopher C. Hoffman (CA Bar No.:176334)
Amie M. Goble (CA Bar No.: 243778)
FISHER & PHILLIPS LLP
4225 Executive Square, Suite 950
La Jolla, California 92037
Telephone (858) 597-9600
Facsimile (858) 597-9601

Attorney for Defendant
LA PETITE ACADEMY, INC.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO -- CENTRAL

CONNIE CORN, an individual,
Plaintiff,

vs.

LA PETITE ACADEMY, INC., a
corporation; BRANDY FRYBARGAR, an
individual; and DOES 1 to 250, inclusive;
Defendants.

Case No. 37-2007-00069409-CU-WT-CTL

**DEFENDANT'S NOTICE OF FILING
PETITION FOR REMOVAL TO
FEDERAL COURT**

COMPLAINT FILED: June 29, 2007

TO THE CLERK OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO:

PLEASE TAKE NOTICE THAT on December 28, 2007, Defendant La Petite
Academy, Inc., by and through its attorneys, filed with the United States District Court for the
Southern District of California, its Notice of Removal of this action, a true and correct copy of
which is attached hereto as Exhibit "A." Pursuant to 28 U.S.C. § 1446(d), the filing of the
aforesaid Notice of Removal in the District Court, together with the filing of this Notice with
this Court, effects the removal of this action, and this Court may not proceed further with the

///

///

///

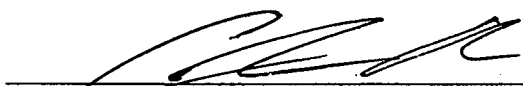
EXHIBIT C

1 above-captioned litigation unless and until the case is remanded.

2 FISHER & PHILLIPS LLP

3 Dated: December ~~26~~, 2007

4 By:


CHRISTOPHER C. HOFFMAN
AMIE M. GOBLE
Attorneys for Defendant
LA PETITE ACADEMY, INC.

Christopher C. Hoffman (CA Bar No.:176334)
Amie M. Goble (CA Bar No.: 243778)
FISHER & PHILLIPS LLP
4225 Executive Square, Suite 950
La Jolla, California 92037
Telephone (858) 597-9600
Facsimile (858) 597-9601

Attorney for Defendant
LA PETITE ACADEMY, INC.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO -- CENTRAL

CONNIE CORN, an individual,	)	Case No.: 37-2007-00069409-CU-WT-CTL
)	
Plaintiff,)	
	)	NOTICE TO ADVERSE PARTIES OF
vs.	)	REMOVAL TO FEDERAL COURT
)	
LA PETITE ACADEMY, INC., a)	
corporation; BRANDY FRYBARGAR,	)	COMPLAINT FILED: June 29, 2007
an individual; and DOES 1 to)	
250, inclusive;)	
)	
Defendants.)	

TO PLAINTIFF CONNIE CORN AND HER ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT a Notice of Removal of this action was filed on December 28, 2007, in the United States District Court for the Southern District of California. A copy of the said Notice of Removal is attached to this Notice as Exhibit "A", and is served and filed herewith.

FISHER & PHILLIPS LLP

Dated: December 26, 2007

By: 

CHRISTOPHER C. HOFFMAN
AMIE M. GOBLE
Attorneys for Defendant
La Petite Academy, Inc.

EXHIBIT 

NOTICE TO ADVERSE PARTIES OF REMOVAL TO FEDERAL COURT

PROOF OF SERVICE
(C.C.P. § 1013(a) and § 2015.5)

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

I am employed in the County of San Diego, State of California. I am over the age of eighteen years and not a party to the within action. I am employed with the law offices of Fisher & Phillips LLP and my business address is 4225 Executive Square, Suite 950, La Jolla, California 92037.

On December 27, 2007, I caused the within document(s) entitled: **DEFENDANT'S NOTICE OF REMOVAL OF ACTION TO THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF CALIFORNIA**; to be served on all interested parties in this action by placing ☐ the original / ☒ a true copy thereof, in a sealed envelope addressed as follows:

Gary Carlin, Esq.
Brent S. Buchsbaum, Esq.
Joanne P. Freeman, Esq.
Carlin & Buchsbaum LP
555 East Ocean Blvd., Suite 600
Long Beach, CA 92802
562/435-1656 fax

Attorneys for Plaintiff
Connie Corn

☒ **MAIL** - I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at La Jolla, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

☐ **FAX** - I caused the document(s) listed above to be telefaxed to the aforementioned facsimile number(s).
The facsimile machine I used complied with California Rules of Court, Rule 2003(3) and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2005(i), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

☐ **BY PERSONAL SERVICE** - Such envelope(s) were delivered by hand to the individuals listed above.

☐ **STATE** - I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ **FEDERAL** - I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 27, 2007, at La Jolla, California.


Marcie Hawkins

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

145960 - BH

**December 28, 2007
11:00:52**

Civ Fil Non-Pris

USAO #: 07CV2427 CIVIL FILING

Judge.: NAPOLEON A JONES, JR

Amount.: \$350.00 CK

Check#: BC# 6988

Total-> \$350.00

FROM: CIVIL FILING
CORN V. LA PETITE ACADEMY

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

CONNIE CORN

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Carlin & Buchsbaum, LLP, 555 E. Ocean Blvd., Suite 818
Long Beach, CA 90802, 562-432-8933

DEFENDANTS

LA PETITE ACADEMY, INC., a corporation; BRANDY
FRYBARGER, an individual, DOES 1 to 250

County of Residence of First Listed Defendant Novi, Michigan
(IN U.S. PLAINTIFF CASES ONLY) IF OTHER

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)
BY

DEPUTY

Fisher & Phillips LLP, 4225 Executive Sq., Suite 950,
La Jolla, CA 92037, 858-597-9600

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | |
|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| PTF | DEF | | PTF | DEF |
| <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Citizen of This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Citizen of Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus: <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. section 1332

Brief description of cause:

Alleged wrongful termination and disability discrimination.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/28/2007

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

145960

AMOUNT

\$350

APPLYING IFP

JUDGE

MAG. JUDGE

CR